

IN THE IOWA DISTRICT COURT FOR AUDUBON COUNTY

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STATE OF IOWA, ex rel., THOMAS J.
MILLER, ATTORNEY GENERAL OF IOWA
(99AG23112), and IOWA DEPARTMENT OF
NATURAL RESOURCES (99AG23542),

Plaintiffs,

vs.

LAWRENCE HANDLOS,

Defendant.

LAW NO. CVCV018851

**CONSENT ORDER, JUDGMENT
AND DECREE**

NOW on this 15 day of August, 2005, the Court is presented with the Plaintiff's Petition at Law seeking civil penalties and injunctive relief pursuant to Iowa Code section 455B.191. The Court having read the petition and being otherwise advised by the parties **FINDS:**

1. The Court has jurisdiction of the parties and subject matter of this action and the parties consent to the entry of this Consent Order, Judgment and Decree.
2. The defendant admits each of the violations alleged in paragraphs 66, 67, 68 (with respect to July, 2002), 88, 89, 90, 92, 93 and 94 of the petition solely for purposes of resolving the above-captioned matter, and denies the remaining allegations. As to paragraph 68, defendant affirmatively states, and the plaintiff agrees, that the defendant was advised by a representative of the DNR that a construction permit was not required at the 4A King nursery site.
3. By admitting these violations solely for purposes of resolving the above-captioned matter, the defendant does not concede, nor does the defendant waive its right to contest that the violations are applicable to a habitual violator determination under Iowa Code section 459.604.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. Defendant Lawrence Handlos shall pay a civil penalty of Fifty Thousand and no/100 Dollars (\$50,000.00) for the violations alleged in paragraphs 66, 67, 68, 88, 89, 90, 92, 93 and 94 of the petition, and admitted herein, within ten (10) days of the entry of this Consent Order, Judgment and Decree. The defendant shall also pay interest pursuant to Iowa Code section 535.3(1) on any unpaid balance. Payment of the civil penalty and any interest shall be made to the Clerk of the Iowa District Court for Audubon County.

2. The Clerk of the Iowa District Court for Audubon County shall issue and cause to be served upon Defendant Lawrence Handlos a permanent writ of injunction enjoining him from any violations of Iowa Code sections 455B.186(1), 459.303(1)(a)(1), 459.311(1); 567 Iowa Admin. Code 65.2(3), 65.7(1)(b), 65.15(7)(b); Administrative Order No. 2002-AFO-07; and NPDES General Permit No. 2, Storm Water Discharge Associated with Industrial Activity for Construction Activities.

3. Defendant shall also comply with the following terms:

A. As-Built Construction Permit. The Defendant shall submit an application for an as-built construction permit for the 4A King nursery site within thirty (30) days of entry of this Decree. The application shall include all available information concerning construction of the manure storage structures for the fourth and fifth buildings at the 4A King site, including the type and quantity of materials used and any construction plans. The application shall also include a statement from a professional engineer licensed to practice in Iowa certifying that the manure storage structures

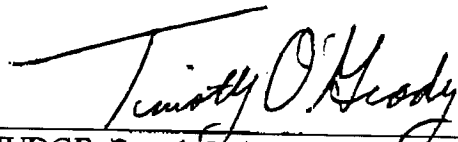
for the fourth and fifth buildings provide environmental protection equivalent to structures constructed pursuant to a permit.

- B. Groundwater Table Determination. The defendant shall determine if the ground water table is above the bottom of the manure storage structures for the fourth and fifth buildings constructed at the 4A King site and the first buildings constructed at the Home Place West, Steffes East and Zaiger sites. The ground water table shall be determined by a licensed professional engineer utilizing soil testing procedures identified in 567 Iowa Admin. Code 65.15(7). The data shall be provided to the DNR within thirty (30) days of entry of this Decree. If these procedures establish that the groundwater table is above the bottom of any of the structures referenced in this paragraph, the defendant shall install groundwater lowering tiles for that structure within thirty (30) days or such time period as is approved in writing by the DNR. As an alternative, the defendant may furnish a certification from a licensed professional engineer, based on topographic maps before construction and grading plans after construction, that the structures were constructed above the normal soil surface.

4. The Court retains jurisdiction of this matter to ensure compliance with the terms of this order.

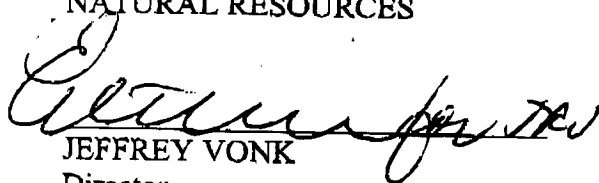
5. The costs of this action are taxed to the defendant in the amount of \$ _____

(Clerk to enter).


JUDGE, Fourth Judicial District of Iowa

Approved as to form:

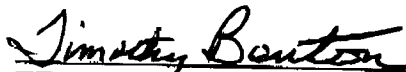
IOWA DEPARTMENT OF
NATURAL RESOURCES



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